

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2141 of 1996

For Approval and Signature:

Hon'ble THE ACTING CJ R.A.MEHTA and
MR.JUSTICE C.K.THAKKER

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

KANJIBHAI MAGANDAS

Versus

PRANT OFFICER

Appearance:

MR NS SHEVADE for Petitioners
MR.DC DAVE, AGP, for Respondents.

CORAM : THE ACTING CJ R.A.MEHTA and
MR.JUSTICE C.K.THAKKER

Date of decision: 20/02/97

ORAL JUDGEMENT (PER R.A.MEHTA ACT.C.J.)

Rule. Mr.D.C.Dave waives service of Rules. With the consent of the parties, this Special Civil Application is taken up for final hearing.

The petitioners made an application under

Sec.28-A of the Land Acquisition Act, 1894. That provision was added by Amending Act of 1984. In this case notifications under Sections 4 and 6 and award under Section 11 were all prior to commencement of the Amending Act. The award of the Land Acquisition Officer was passed on 18.2.1983 and compensation was awarded at the rate of Rs.0/77 ps. per sq.mt.

One of the landholders had preferred Land Reference No.74 of 1984 to the District Court and by award dt. 20th July 1993 compensation was enhanced to Rs.3.50 per sq.mt. Thus, additional compensation of Rs.2.73 ps. per sq.mt. was awarded.

On the basis of this award, the present petitioners made an application on 23.9.1993 for making reference for their claim for additional compensation on the basis of the award of the court.

The Prant Officer, Mehsana (Special Land Acquisition Officer) held that the Amendment Act which had come into force in September 1984 could not be availed of by present applicants in whose case award dt. 18.2.1993 had come final before Sec.28-A had come into force.

The learned counsel for the petitioner has drawn our attention to the Government Circular dt.10th August 1992 and it is taken on record. Relying on the decision of this High Court, the State Government has issued clarification and directed that even though the notification under Sec.4 and 6 have been issued prior to 1984 and the decision of the District Court in Land Reference has come after 24.9.1984 i.e. after amendment in the Act, then also the provision of Sec.28-A would be applicable.

In view of this circular and the provision of Sec.28-A of the Act, it is clear that the authority has erred in not making references under Sec.28-A on the application of these landholders. Hence, this petition is allowed by quashing and setting aside the impugned order of the first respondent and directing the first respondent to grant the application filed by the petitioner under Sec.28-A of the Act for determination of the market value in accordance with law. Rule is made absolute accordingly with no order as to costs.
